

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Presubscribed Interexchange Carrier Charges	)	CC Docket No. 02-53
	)	CCB/CPD File No. 01-12
	)	RM-10131
	)	

**NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION  
INITIAL COMMENTS**

The National Telecommunications Cooperative Association (NTCA)<sup>1</sup> hereby files its initial comments in the above-captioned proceeding.<sup>2</sup>

**I. INTRODUCTION**

On March 20, 2002, the Federal Communications Commission (Commission or FCC) released an order granting the Competitive Telecommunications Association's (CompTel's) request to initiate a rulemaking to examine presubscribed interexchange carrier-change charges (PIC-change charges). As a result, the Commission issued a Notice of Proposed Rulemaking (NPRM) to determine whether it should modify the current \$5.00 PIC-change charge safe harbor. The Commission concluded that because significant industry and market changes have occurred since the implementation of the \$5.00 safe harbor in 1984, it is appropriate to reexamine the incumbent local exchange carrier (ILEC) charge at this time. NTCA submits that

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<sup>1</sup> NTCA is a non-profit corporation established in 1954 and represents 545 rate-of-return regulated rural telecommunications companies. NTCA members are full service telecommunications carriers providing local, wireless, cable, Internet, satellite and long distance services to their communities. All NTCA members are small carriers that are defined as "rural telephone companies" in the Communications Act of 1934, as amended (Act). They are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities.

<sup>2</sup> *In the Matter of Presubscribed Interexchange Carrier Charges*, CC Docket No. 02-53, CCB/CPD File No. 01-12, RM-10131, FCC 02-79 (rel. March 20, 2002)(Order and NPRM).

notwithstanding recent industry and market changes, the current \$5.00 charge remains reasonable.

## **II. THE \$5.00 PIC-CHANGE SAFE HARBOR SHOULD REMAIN IN PLACE**

The current \$5.00 PIC-change charge safe harbor continues to be reasonable in today's rapidly evolving telecommunications marketplace. As SBC Communications identifies, although the mechanization of PIC changes has increased over the years, the mechanization was designed mainly to allow for faster processing of PIC change requests, not reduced cost.<sup>3</sup> The automated system is expensive to implement and maintain.<sup>4</sup> And, not all PIC changes are handled on a mechanized basis. According to SBA, in June 2001, less than half of all PIC changes are done on a mechanized basis.<sup>5</sup>

Verizon's Federal and state filings and decisions also support a \$5.00 PIC-change charge.<sup>6</sup> Verizon's 1993 cost-support for its Federal PIC-change tariff demonstrated that the weighted cost of a PIC change (taking into account both automated and manual PIC changes) was \$4.96. More recent state decisions have further verified the reasonableness of a \$5.00 PIC-change charge. In 1998, the Massachusetts Department of Public Utilities determined that a \$5.00 local PIC-change charge was reasonable based on cost information for both automated and manual PIC changes.<sup>7</sup> In 2001, the Maryland Public Service Commission similarly determined a reasonable PIC-change charge should be at least \$5.00.<sup>8</sup>

Moreover, given the level of slamming that has occurred in recent years, the \$5.00 charge

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3 SBC Initial Comments filed in CCB/CPD 01-12, RM No. 10131, p. 1 (June 18, 2001).

4 *Id.*

5 *Id.*

6 Verizon Initial Comments filed in CCB/CPD 01-12, RM No. 10131, p. 5 (June 18, 2001).

7 *Investigation as to the Proprietary Rates and Charges in Bell-Atlantic-Massachusetts Tariffs: M.D.P.U. Nos. 10 and 15*, DPU 96-106-A, p. 23 (April 9, 1998).

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is warranted to recover much more than just processing and implementing a PIC change request. It is also needed to recover the costs associated with responding to the increased number of customer slamming complaints and inquiries as well as the cost of slamming investigations conducted by ILECs on behalf of their customers. This is particularly true for the small community-based ILECs like NTCA's members. Because NTCA members are locally based their subscribers have ready access to company personnel and look to the local exchange company to resolve slamming complaints and other problem issues that are not of the ILEC's making but nevertheless land on the ILEC's door because the ILEC is based in the community and is the closest point of contact.

The Commission should also not assume that if Bell South's cost to process a PIC change is \$1.49, the cost for all other carriers must also be \$1.49. The cost of processing a PIC change for each of the 1300 independent ILECs, many of which are very small and rural, may be significantly different than what it costs SBC and other large non-rural ILECs. The differences in network costs, areas served, and degree of economic development and competition in rural markets has been well documented in pleadings and in the Rural Task Force (RTF) White Papers. The Commission has acknowledged numerously these differences in other proceedings, most recently in the universal service and access reform proceedings for rate-of-return carriers.<sup>9</sup> In doing so, the Commission has established different levels of universal service support and different access rates for rural and non-rural ILECs to account for these differences. The Commission should also view this proceeding with an eye toward the fact that one-rate does not

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<sup>8</sup> *Investigation Into the Appropriate Level of the PIC Change Charge*, Case No. 8862 (2001).

<sup>9</sup> See, *In the Matter of the Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, FCC 01-157 (rel. May 23, 2001); *In the Matter of Multi-Association Group (MAG) Plan*, CC Docket No. 00-256, FCC 01-304 (rel.

fit all carriers, particularly small, rural ILECs operating in high-cost areas throughout the country.

The current PIC-change charge has not adversely affected long distance rates or usage. Long distance per-minute rates have steadily decreased and long distance usage steadily increased since 1984 (more so in urban than rural areas). Consumers have not viewed the \$5.00 charge significant enough to prevent them from changing long distance carriers to take advantage of lower prices and/or other promotional plans offered by other carriers. With lower per-minute prices, the one-time PIC-change charge has been a small and reasonable price to pay for switching long-distance providers to take advantage of greater per-minute savings on a monthly and annual basis.

Lastly, unlike wireline ILECs, wireless carriers are not required to offer equal access and therefore do not process PIC change requests. As a result, they have a distinct competitive advantage in that they can compete directly against rural ILECs without incurring the additional cost of providing equal access and processing PIC changes. This regulatory disparity is inconsistent with the Commission's goal of minimizing disparities so that "no entity receives an unfair competitive advantage"<sup>10</sup> and contrary to establishing "a modern equal access and nondiscriminatory regulatory regime that will benefit consumers."<sup>11</sup>

Equal access and PIC changes provide consumers with the direct benefits of being able to conveniently choose any long distance provider offering services in their community without switching their local phone company. It also stimulates long distance services competition in

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Nov. 8, 2001).

10 *Federal-State Joint Board on Universal Service*, First Report and Order, 12 FCC Rcd 8776, 8802 (1997).

11 *In the Matter of Notice of Inquiry Concerning the Review of the Equal Access and Nondiscrimination Obligations*

rural communities because all long distance providers know they have direct access to the consumer. As NTCA previously stated in its comments concerning the redefinition of universal service, equal access should be added to the list of services that are eligible for universal service support.<sup>12</sup> It fits squarely into the universal service criteria put forth in Section 254(c) of the Act and provides immediate and tangible benefits to the American public.<sup>13</sup>

Requiring all eligible telecommunications carriers (ETCs) to offer equal access and PIC changes would help reduce the current regulatory disparity between ILECs and wireless ETCs. It would also assist the Commission in ensuring that no entity receives an unfair competitive advantage as a result of regulatory requirements and costs associated with providing equal access and PIC changes. In addition, extending the equal access and PIC change requirements to wireless ETCs would move the Commission closer to a modern regulatory regime and competitive paradigm that provides greater public benefits through the ability of consumers to comparison shop for competitive long distance services on both their wireline and wireless phones. For these reasons, the Commission should carefully consider establishing equivalent regulatory requirements on ILECs and wireless ETCs when deciding the future of equal access and PIC changes.

### **III. CONCLUSION**

Based on these reasons, NTCA urges the Commission to maintain the current \$5.00 PIC-change charge safe harbor and require the same regulatory requirements for both wireline ILECs and wireless ETCs concerning equal access and PIC changes.

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*Applicable to Local Exchange Carriers*, CC Docket No. 02-39, FCC 02-57, ¶ 2 (rel. February 28, 2002).

<sup>12</sup> NTCA's Initial Comments filed in CC Docket No. 96-45, FCC 01-J-1 (Nov. 13, 2001).

<sup>13</sup> 47 U.S.C. §254(c).

Respectfully submitted,

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June 14, 2002

## CERTIFICATE OF SERVICE

I, Gail C. Malloy, certify that a copy of the foregoing Comments of the National Telecommunications Cooperative Association in CC Docket No. 02-53, FCC 02-79 was served on this 14th day of June 2002 by first-class, U.S. Mail, postage prepaid, to the following persons.

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